

Message Text

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INFO ALL EC CAPITALS
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E.O. 11652: N/A
TAGS: EFIN, ETRD, OECD
SUBJECT: MAY 17-18 MEETING OF INSURANCE COMMITTEE

REF: A) OECD 37939 (1976), B) STATE 302570 (1976)

1. SUMMARY. INSURANCE COMMITTEE (IC) AGREED IN PRINCIPLE TO THE DRAFT RECOMMENDATION ON COOPERATION BETWEEN INSURANCE SUPERVISORY AUTHORITIES, INCLUDING MODEL BILATERAL CONVENTION, BUT BECAME EMBROILED IN UNRESOLVED PROCEDURAL DEBATE OVER WHETHER REPORT ON THIS RECOMMENDATION SHOULD BE FORWARDED TO COUNCIL (AND, IF SO, HOW), GIVEN THE DORMANT NATURE OF THE IC. ON OTHER MATTERS, A FEW POINTS OF INTEREST EMERGED CONCERNING DEVELOPMENTS IN THE EC IN FIELDS OF PRODUCTS LIABILITY AND CO-INSURANCE. END SUMMARY.

2. IC MET MAY 17 AND MORNING OF 18TH. IN ABSENCE OF ANOTHER CANDIDATE, BASYN (BELGIUM) WAS REELECTED CHAIRMAN. COMMITTEE OF EUROPEAN INSURERS ENGINEERED IN ADVANCE THE ELECTION AS VICE-CHAIRMAN OF POLLAK
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(AUSTRIA) AND FRANGOULIS (UNITED KINGDOM). ELECTION OF LATTER, WHO IS INDUSTRY ADVISOR, ACCORDS WITH IC CUSTOM TO HAVE ONE VICE-CHAIRMAN FROM PRIVATE SECTOR.

3. COOPERATION BETWEEN SUPERVISORY AUTHORITIES (SEE DAF/AS/77.23).
REVISED DRAFT OF WORKING PARTY REPORT CONVEYING DRAFT

COUNCIL RECOMMENDATION AND MODEL BILATERAL CONVENTION WAS DISCUSSED AND AMENDED FURTHER. HAVING OBTAINED IC ENDORSEMENT IN PRINCIPLE, CHAIRMAN PUSHED FOR FINALIZATION OF REPORT ON THIS RECOMMENDATION AND SOUGHT WAY TO PRESENT REPORT TO OECD COUNCIL DESPITE FORMAL AWKWARDNESS OF PRESENT STATUS OF COMMITTEE WHICH RESTRICTS IT TO ACT AS FORUM FOR EXCHANGE OF INFORMATION ONLY. US REP (DWYER) REITERATED POSITION -- SET FORTH AT PREVIOUS MEETING IN ACCORDANCE WITH REF B -- THAT NATURE OF ITS SUPERVISORY MACHINERY FOR INSURANCE PRECLUDES U.S. FEDERAL AUTHORITIES FROM CONCLUDING BILATERAL TREATIES OR COMMITTING REGULATORS OF INDIVIDUAL STATES, BUT THAT USG IS PREPARED TO PLACE DRAFT REPORT BEFORE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS. WITH RESPECT TO PROCEDURE IN OECD, US REPS CAUTIONED THAT (IN VIEW OF ILL-FATED HISTORY OF PREVIOUS INSURANCE COMMITTEE RECOMMENDATIONS IN COUNCIL AND LACK OF PROVISION IN OECD BUDGET FOR SUPPORT OF ACTION-ORIENTED IC WORK) IC SHOULD, AT LEAST INFORMALLY, OBTAIN ADVANCE VERIFICATION OF LIKELY COUNCIL ACCEPTANCE BEFORE SUBMITTING REPORT AND SUGGESTED THAT ONE OR MORE COUNTRIES TAKE THE LEAD IN MAKING SOUNDINGS THROUGH PERMANENT DELEGATIONS. NEVERTHELESS, CHAIRMAN INSISTED ON SENDING REPORT FORWARD AND OBTAINED SUPPORT OF SOME DELEGATES FOR HIS PROPOSAL TO SEND LETTER TO SEC GEN NOTING DESIRE OF THESE COUNTRIES (WHO WILL HAVE TO CONFIRM THIS THROUGH PERMANENT REPRESENTATIVES) TO OBTAIN COUNCIL CONSIDERATION OF REPORT. IT REMAINS TO BE SEEN WHETHER THIS SUPPORT WILL BE CONFIRMED. HOWEVER, IN CORRIDORS SOME LIMITED OFFICIAL USE

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EC DELEGATIONS EXPRESSED OPTIMISM THAT THEIR AUTHORITIES WOULD AGREE TO THIS REPORT IN THE COUNCIL, DESPITE DISPUTE WITHIN EC WHETHER COMMUNITY OR INDIVIDUAL MEMBERS HAD JURISDICTION TO CONCLUDE BILATERAL AGREEMENTS ON COOPERATION IN INSURANCE MATTERS.

4. SECRETARIAT (SCHLEPEGRELL) FORESAW LACK OF AGREEMENT IN COUNCIL AND URGED IC TO REVERSE FORMER REJECTION OF 1970 INVISIBLES COMMITTEE'S REPORT (C(70)15) SUGGESTING MODIFICATION OF INVISIBLES CODE AS FIRST STEP IN LIBERALIZING INSURANCE IF IT WISHED TO REGAIN ACTIVE STATUS FOR IC. US SUPPORTED THIS PROPOSAL, BUT MOST DELEGATIONS EXPRESSED UNCERTAINTY AND DID NOT SEE WHY ATTITUDE ON THIS QUESTION SHOULD AFFECT CONSIDERATION OF DRAFT REPORT ON COOPERATION.

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5. PROGRESS OF WORK ON INSURANCE IN THE EUROPEAN
COMMUNITIES.
A. LIBERALIZATION OF INTERNATIONAL CO-INSURANCE:
EC REPS DESCRIBED CURRENT STATUS OF DRAFT DIRECTIVE
ON CO-INSURANCE, ORIGINALLY SUBMITTED TO THE EC COUNCIL
IN 1972, WHICH WOULD REGULATE THE MEANS BY WHICH IN-
SURERS IN DIFFERENT MEMBER STATES CAN INSURE JOINTLY A
SINGLE RISK. THE PREVIOUS VERSION OF THE DIRECTIVE HAD
BEEN MODIFIED, AT COUNCIL DIRECTION: (1) TO LIMIT
COVERAGE TO CERTAIN RISKS (TRANSPORT, FIRE, OTHER DAMAGE
TO GOODS, THIRD PARTY LIABILITY, ETC.; AND (2) TO
PROVIDE THAT CO-INSURER BE ESTABLISHED EITHER IN THE
COUNTRY WHERE THE RISK IS LOCATED OR IN THE
HOME COUNTRY OF THE POLICY HOLDER. THE LATEST DRAFT
OF THE DIRECTIVE (PRESUMABLY AVAILABLE IN BRUSSELS)
MAINTAINS THE LIMITATION SPECIFIED IN (1) ABOVE BUT
SUBSTANTIALLY LIBERALIZED POINT (2) BY ELIMINATING THE
REQUIREMENT THAT THE LEADING INSURER BE LOCATED IN
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COUNTRY OF RISK OR POLICY HOLDER. INSTEAD, ONLY

REQUIREMENT IS THAT ONE OF THE CO-INSURERS, THROUGH ITS HEADQUARTERS, BRANCH OR SUBSIDIARY, BE LOCATED IN A COUNTRY DIFFERING FROM THAT OF THE LEADING INSURER. THE COMMISSION REPRESENTATIVES PREDICTED POLITICAL AGREEMENT ON THE DIRECTIVE BY SUMMER 1977, WITH THE FINAL PROJECT TO EMERGE BY YEAR END.

B. DIRECTIVE ON PRODUCT LIABILITY:

THIS DIRECTIVE WAS SENT TO THE COMMUNITIES' LEGISLATIVE BODIES FOR CONSIDERATION LAST YEAR. ITS BASIC PURPOSE IS TO HARMONIZE THE GOVERNING LEGISLATION OF THE NINE MEMBERS SO AS TO AVOID: (1) THE DISTORTION OF COMPETITION; (2) RESTRICTIONS ON THE MOVEMENTS OF GOODS AND SERVICES; AND (3) DENIAL OF EQUAL PROTECTION TO CONSUMERS THROUGHOUT THE EC. THE PROPOSAL WAS DEVELOPED IN RESPONSE TO THE EC COUNCIL'S ADOPTION IN 1976 OF A CONSUMER PROTECTION CODE. THE DIRECTIVE APPLIES A CONCEPT OF STRICT LIABILITY ON PRODUCERS OF PRODUCTS, EVEN TO THE EXTENT OF NOT RECOGNIZING AS AN ACCEPTABLE DEFENSE THE DEVELOPMENT RISKS ASSOCIATED WITH NEW PRODUCTS OR THE "STATE OF THE ART" OF A PRODUCT AT THE TIME OF ITS DEVELOPMENT. THE CONCEPT OF CONTRIBUTORY NEGLIGENCE IS NOT ADDRESSED SPECIFICALLY IN THE DIRECTIVE. THE EUROPEAN PROHIBITION AGAINST A CONTINGENCY FEE SYSTEM LIKE THAT IN EFFECT IN THE UNITED STATES WILL CONTINUE. A DRAFT OF THE DIRECTIVE IS PUBLICLY AVAILABLE FROM THE EC.

C. OTHER DIRECTIVES:

TWO OTHER DRAFT DIRECTIVES BEING PREPARED BY THE COMMISSION ARE: (1) CONTRACTS; AND (2) LIQUIDATION OF COMPANIES. NO TIMETABLE WAS GIVEN FOR THEIR CONSIDERATION.

6. REVIEW OF LEGISLATIVE AND OTHER DEVELOPMENTS IN MEMBER COUNTRIES.

THE HIGHLIGHTS OF DEVELOPMENTS REPORTED WERE:
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(A) FINLAND - INSURANCE LEGISLATION IS BEING REVISED, INCLUDING LEGISLATION ON THE RIGHT OF FOREIGNERS TO OPERATE.

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(B) SPAIN - NEW INSURANCE REGULATION WAS RECENTLY SENT
TO SPANISH PARLIAMENT.

(C) NORWAY - VARIOUS MINOR REVISIONS TO 1911 INSURANCE
LAW WERE PASSED IN JUNE, 1976.

(D) SWITZERLAND - THE EC-SWISS BILATERAL NEGOTIATIONS
HAVE LED TO A FIRST DRAFT AGREEMENT BUT MANY DIFFICULTIES
REMAIN TO BE RESOLVED. IF THE NEGOTIATIONS ARE SUCCESS-
FUL, SWITZERLAND WILL REPLACE ITS LAW ON DEPOSITS WITH
ONE ON MATERIAL GUARANTEES.

(E) US DEL REPORTED ON VARIOUS ITEMS OUTLINED IN ITS
POSITION PAPER.

7. OTHER BUSINESS.

DESPITE OBJECTION OF US, CHAIRMAN PUSHED FOR ANOTHER
MEETING OF IC THIS YEAR, EVEN IF THERE ARE NO FIRM
INDICATIONS OF READINESS OF DELEGATIONS TO SUPPORT 1970
INVISIBLES COMMITTEE RECOMMENDATION (PARA 4 ABOVE).
ACCORDINGLY, MEETING SCHEDULED FOR NOVEMBER 29-30. (IN
CORRIDORS, CHAIRMAN OF INFORMAL WORKING GROUP ON INSUR-
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ANCE IN DEVELOPING COUNTRIES (TOREN, SWEDEN) INSISTED
ON MAINTAINING OCTOBER 13 AND 14 DATES FOR MEETING OF
THAT GROUP (PARA 10, REF A) DESPITE REPORTED CHANGE IN
DATE OF MEETING OF UNCTAD'S CIFT TO DECEMBER 5-16 AND
SCHEDULING OF OECD'S IC MEETING AT END NOVEMBER.)
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